



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 30, 1995

Ms. Gail Fenter
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

OR95-1331

Dear Ms. Fenter:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. We assigned your request ID# 36841.

The City of Midland has received an open records request for the "police incident report involving the homicide of James Poole." You contend that sections 552.108 and 552.103 of the Government Code except from disclosure most of the requested information because a criminal prosecution is pending in this matter. You have submitted the incident report for our review and have highlighted certain information which you intend to release to the requestor.

We conclude that section 552.108 of the Government Code permits you to withhold most of the requested information. In cases that are currently under active investigation, section 552.108 usually excepts from disclosure all information except that generally found on the first page of the offense report. *See generally Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). You have demonstrated that the case at issue here is currently under active investigation. Therefore, you may withhold all the requested information except that generally found on the first page of the offense report.

The information generally found on the first-page of the offense report includes not only the information you intend to release and the details of the arrest, but also a detailed description of the offense and the names of the investigating officers. *Houston Chronicle Publishing Co.*, 531 S.W.2d at 185, 187; Open Records Decision No. 127 (1976) at 3-4. The information you have highlighted does not include these items. We have enclosed an

excerpt from Open Records Decision No. 127 (1976), which lists the types of information that you must disclose.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Loretta DeHay". The signature is fluid and cursive, with the first name "Loretta" being more prominent than the last name "DeHay".

Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref.: ID# 36841

Enclosures: Submitted documents
Excerpt from Open Records Decision No. 127 (1976)

cc: Mr. Tony Livaccari
International Claims Specialists
P.O. Box 806
Harvey, Louisiana 70059-0806
(w/o enclosures)